



WA.No.2484 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HON'BLE MR JUSTICE P.B.BALAJI

W.A.No.2484 of 2024

Thaiyalnayaki

... Appellant

vs.

1.Petroleum & Explosives Safety Organisation (PESO),
Control of Explosive for Jt.Chief Controller of
Explosives South Circle, No.26, Haddows Road,
Nungambakkam, Chennai.

2.The Revenue Divisional Officer,
Ariyalur District.

3.The Tahsildar,
Jeyamkondam, Ariyalur District.

4.The Sub-Inspector of Police,
T.Palur Police Station,
Ariyalur District.

.. Respondents

PRAYER: Writ Appeal filed under under Clause 15 of the Letters Patent against
the order dated 05.04.2024 made in W.P.No.2471 of 2024.

For Appellant : Mr.T.Sellapandian,



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for Mr.R.Gokulakrishnan

For Respondents : Dr.G.Babu, Senior Panel Counsel for R1

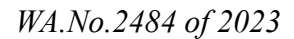
Mr.S.Yashwanth,
Additional Government Pleader for R2 to R4

JUDGMENT

[Order of the Court was made by *D.KRISHNAKUMAR, J.*]

This Intra-Court appeal has been preferred against the order of the Writ Court dated 05.04.2024 passed in W.P.No.2471 of 2024.

2. The appellant has filed the aforesaid writ petition praying for a Mandamus directing the respondents to unseal, unlock and handover the crackers kept in S.F.No.174 in Nayaganaipriyal Village, Ariyalur District by considering the petitioner's representation dated 23.01.2024. The Writ Court taking into consideration that once the explosives and materials are subjected to criminal case, it cannot issue a direction to de-seal or handover possession of the property to the petitioner and it is also left open to the petitioner to approach the jurisdictional Criminal Court of Law for the purpose of return of property in the manner contemplated under the Code of Criminal Procedure. With the above liberty, the Writ Court has dismissed the writ petition, vide order dated



3. On 19.10.2023, a petition has been filed by the respondents in the Court of Judicial Magistrate No.I, Jeyamkondam by filing Crl.M.P.No.5339 of 2023, praying to destroy the case properties of explosive substance under the supervision of the Petroleum and Explosives Safety Organisation (PESO), Control of Explosive for Jt. Chief Controller of Explosives South Circle and obtained orders accordingly. On 23.11.2023, the petitioner filed a petition in the Court of Judicial Magistrate No.I, Jeyamkondam, praying return of custody of the properties from the Sub Inspector of Police, T.Palur and the same was dismissed by the Court, wherein it already had given orders for proper destruction of the case properties of explosive substance. In such circumstances, the appellant/writ petitioner, challenging the order of the Writ Court, has filed the present writ appeal.

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and therefore, he seeks for desealing the premises and return of the properties/crackers to the petitioner/appellant.

5. Mr.G.Babu, learned Senior Panel Counsel for the first respondent has drawn the attention of this Court to the Status Report filed by the Inspector of Police, T.Palur Police Station, Ariyalur District dated 29.10.2024 and would submit that the first respondent has already obtained orders for destruction of the case properties/fire crackers from the Judicial Magistrate Court No.I, Jeyamkondam and as such, fire crackers and other case properties will be destroyed under the supervision of the officer deployed from the office from the office of the Petroleum and Explosives Safety Organisation (PESO), Control of Explosive for Jt.Chief Controller of Explosives, South Circle, Chennai and therefore, according to the first respondent, there is no question of return of the case properties to the appellant/writ petitioner.

6. Heard the learned counsel for the parties and perused the materials on record.



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7. We are view that when a criminal case has been registered by T.Palur Police Station in Crime No.267 of 2023 under Sections 284, 286 IPC and Section 4(b) of Explosive Substances Act, 1908 and the same is pending on the file of the Judicial Magistrate No.I. Jeyamkondam, whether the case properties has been required at the time of trial or the same shall be destroyed by the authorities concerned or the same shall be returned to the petitioners, these aspects has to be considered. The Writ Court has rightly dismissed the writ petition granting liberty to the appellant/writ petitioner to approach the concerned Criminal Court for return of the properties.

7. In the light of the above, the appellant/writ petitioner shall approach the concerned Criminal Court seeking return of the case properties / fire crackers and the same shall be considered by the Criminal Court as to whether the case properties are required for trial or not and to take appropriate decision as per the provisions of law. It is also open to the appellant/writ petitioner to approach the Criminal Court for de-sealing of the premises after the orders are passed for removal of case properties.



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8. With the above directions, the Writ Appeal shall stands dismissed. No costs.

(D.K.K., J.) (P.B.B, J.)
06.11.2024

Intex : Yes/No

Internet : Yes/No

Jvm

To

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